

MEMORANDUM

Agenda Item No. 11(A)(30)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: December 12, 2023

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution opposing Senate Bill 664, House Bill 527, or similar legislation preempting the regulation of dredge and fill activities to the state, requiring that local governments acquire certain buffer zones related to land and water delineations, or repealing certain statutory provisions related to land management review teams

Resolution No. R-1176-23

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Micky Steinberg.



Geri Bonzon-Keenan
County Attorney

GBK/jp



MEMORANDUM

(Revised)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

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Gen Bonzon-Keenan
County Attorney

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Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☒ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____ to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 11(A)(30)
12-12-23

RESOLUTION NO. _____ R-1176-23

RESOLUTION OPPOSING SENATE BILL 664, HOUSE BILL 527, OR SIMILAR LEGISLATION PREEMPTING THE REGULATION OF DREDGE AND FILL ACTIVITIES TO THE STATE, REQUIRING THAT LOCAL GOVERNMENTS ACQUIRE CERTAIN BUFFER ZONES RELATED TO LAND AND WATER DELINEATIONS, OR REPEALING CERTAIN STATUTORY PROVISIONS RELATED TO LAND MANAGEMENT REVIEW TEAMS

WHEREAS, pursuant to section 373.403 of the Florida Statutes, the term “dredging” is defined to mean “excavation, by any means, in surface waters or wetlands, as delineated in s. 373.421(1),” and “also means the excavation, or creation, of a water body which is, or is to be, connected to surface waters or wetlands, as delineated in s. 373.421(1), directly or via an excavated water body or series of water bodies,” and the term “filling” is defined to mean “the deposition, by any means, of materials in surface waters or wetlands, as delineated in s. 373.421(1)”; and

WHEREAS, dredging and filling are land development activities which may currently be regulated by state and local governments; and

WHEREAS, Miami-Dade County currently has local regulations related to dredging and filling, including, for example, in tidal waters such as Biscayne Bay and in coastal and other wetlands, and such regulations relate, for example, to the protection of water quality in Biscayne Bay and throughout Miami-Dade County, and the protection of water quantity and the community’s water supply; and

WHEREAS, Senate Bill (SB) 664 and House Bill (HB) 527 have been filed by Senator Danny Burgess (R – Zephyrhills) and Representative Randall Scott “Randy” Maggard (R – Zephyrhills), respectively, for consideration during the 2024 session of the Florida Legislature; and

WHEREAS, SB 664 and HB 527 are bills that would create a new section 403.8111 that would provide that, “[t]he regulation of dredge and fill activities under this chapter and chapter 373 is preempted to the department,” and that, “[t]his section does not preclude the authority of the department to delegate powers to water management districts under chapter 373”; and

WHEREAS, these provisions would preempt local regulations of dredging and filling activities, such as wetlands regulations and the regulation of dredging and filling in tidal waters, such as in and around Biscayne Bay; and

WHEREAS, this proposed preemption is expected to reduce the regulation of activities in and around Biscayne Bay, which would negatively impact Miami-Dade County’s ongoing efforts and ability to protect and restore Biscayne Bay; and

WHEREAS, Miami-Dade County’s efforts to protect and restore Biscayne Bay have received millions of dollars in financial and technical support from the State of Florida, through, for example, multiple grant awards from the State of Florida, the creation of the state’s Biscayne Bay Commission, and the Florida Department of Environmental Protection’s assistance in Miami-Dade County’s ongoing work on a future Reasonable Assurance Plan under the Clean Water Act to address water quality issues; and

WHEREAS, the 2023 Biscayne Bay Economic Study Update Final Report, which was prepared for the South Florida Water Management District and Miami-Dade County, concluded that Biscayne Bay contributed more than \$64 billion dollars per year in economic benefits to Miami-Dade County and the State of Florida; and

WHEREAS, a healthy Biscayne Bay is essential to maintaining such economic benefits, and this proposed preemption could negatively impact such economic benefits by, for example, impacting Miami-Dade County's ability to protect and restore Biscayne Bay; and

WHEREAS, in addition, this proposed preemption of the regulation of dredge and fill activities could result in other significant negative impacts to Miami-Dade County and other local governments, by for example reducing local governments' ability to manage stormwater from both a water quality and quantity perspective, reducing local governments' ability to protect wellfield areas, and reducing local governments' ability to provide coastal protection and resiliency against storms and sea level rise; and

WHEREAS, Miami-Dade County's continued ability to regulate dredge and fill activities in and around Biscayne Bay is an important part of these efforts to maintain and continue the efforts by the State of Florida and Miami-Dade County to protect and improve Biscayne Bay; and

WHEREAS, SB 664 and HB 527 would both also repeal section 373.591, Florida Statutes, which provides for land management review teams to conduct periodic management reviews of lands that were acquired by water management districts for conservation, preservation, and recreation purposes; and

WHEREAS, SB 664 and HB 527 would both also amend section 373.421, Florida Statutes, to provide that, "[b]uffer zones for land or water delineations established by a county or municipality that exceed the delineation determinations for such land or water by the Department

of Environmental Protection or a water management district” must be acquired by the respective local government, and HB 527 would further require that such acquisition be done only via the use of eminent domain, while SB 664 provides that such acquisition cannot be made with the use of eminent domain; and

WHEREAS, the Code of Miami-Dade County, Florida (“Code”) does not contain provisions requiring such buffer zones, however, should Miami-Dade County wish to consider such a Code requirement in the future, this bill could limit such a concept; and

WHEREAS, to protect and restore Biscayne Bay and the environment, to the benefit of the public and the vast economic benefits of Biscayne Bay in particular, this Board wishes to oppose SB 664, HB 527, or similar legislation preempting the regulation of dredge and fill activities to the state, requiring that counties and municipalities acquire certain buffer zones that exceed Florida Department of Environmental Protection or water management district delineations, or repealing section 373.591, which relates to land management review teams,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board:

Section 1. Opposes Senate Bill 664, House Bill 527, or similar legislation preempting the regulation of dredge and fill activities to the state, requiring that local governments acquire certain buffer zones related to land and water delineations, or repealing certain statutory provisions related to land management review teams.

Section 2. Directs the Clerk of the Board to transmit a certified copy of this resolution to the Governor, the Senate President, the House Speaker, Senator Danny Burgess, Representative Randall Scott “Randy” Maggard, and the Chair and Members of the Miami-Dade State Legislative Delegation.

Section 3. Directs the County’s state lobbyists to advocate against the legislation described in section 1 above, and authorizes and directs the Office of Intergovernmental Affairs to amend the 2024 State Legislative Package to include this item.

The Prime Sponsor of the foregoing resolution is Commissioner Micky Steinberg. It was offered by Commissioner **Anthony Rodriguez** , who moved its adoption. The motion was seconded by Commissioner **Raquel A. Regalado** and upon being put to a vote, the vote was as follows:

Oliver G. Gilbert, III, Chairman	aye		
Anthony Rodríguez, Vice Chairman	aye		
Marleine Bastien	absent	Juan Carlos Bermudez	aye
Kevin Marino Cabrera	aye	Sen. René García	aye
Roberto J. Gonzalez	aye	Keon Hardemon	absent
Danielle Cohen Higgins	aye	Eileen Higgins	aye
Kionne L. McGhee	aye	Raquel A. Regalado	aye
Micky Steinberg	aye		

The Chairperson thereupon declared this resolution duly passed and adopted this 12th day of December, 2023. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.



MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

JUAN FERNANDEZ-BARQUIN, CLERK

Basia Pruna

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Abbie Schwaderer Raurell